

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN DALE MAHLUM**, on March 13, 2001 at
3:00 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. Jim Elliott (D)
Sen. Bill Glaser (R)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)
Sen. Ken Miller (R)
Sen. Ken Toole (D)

Members Excused: Sen. John Cobb (R)
Sen. Emily Stonington (D)

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 439, 3/1/2001
HB 440, 3/1/2001
HB 498, 3/1/2001

Executive Action: HB 439 BC
HB 440 BC
HB 498 BCAA

HB 30 Discussed

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON HB 439

Sponsor: REP. HAL JACOBSON, HD 54, HELENA

Proponents: Ed Mayer, Director, Missoula Housing Authority
Richard Jennings, Resident Service Coordinator,
Helena Housing Authority

Opponents: None

Opening Statement by Sponsor:

REP. HAL JACOBSON, HD 54, HELENA. House Bill 439 was discussed by the National Association of Housing and Redevelopment Officials (NAHRO). They, as a Montana unit, felt that it was important to reconfigure slightly the way they select their resident commissioners. The local Housing Authority throughout the state is composed of a group of commissioners who govern the local housing authorities. Among these commissioners are two resident commissioners. Currently, these two resident commissioners have been required to obtain signatures of 25% of the residents throughout the local housing authority. It has been an onerous requirement as some of the people are handicapped. It was therefore important to change the language to make it more accessible for these people to apply to become a resident member commissioner.

Proponents' Testimony:

Ed Mayer, Director, Missoula Housing Authority. He also was representing the state chapter of the National Association of Housing and Redevelopment Officials (NAHRO). There are ten housing authorities in the state each with a Board of Commissioners who are appointed by the local mayors. There are seven commissioners on each housing authority board. Two of those commissioners must be residents of public housing. The housing authorities direct many programs, most of which are subsidized by the federal government. In Missoula they own and rent 210 public housing units. From those public housing units they would seek representatives to be on the board. They also serve another 700 clients through other rental assistance programs. These clients are not represented on the board and are often anxious to participate but are prohibited by law. Because the housing authorities have experienced terrible participation on the part of low income renters, they believe it is because of the difficulty in collecting sufficient signatures on the petition which is submitted to the mayor's office. The elderly and disabled complain of having to wander around the entire city of Missoula to seek out signatures. This bill accomplishes two

things. It would allow an interested resident to submit a letter of intent. The mayor would then interview those applicants and select the best qualified as commissioner. It also broadens the representation on the boards by allowing anyone who receives assistance from the housing authorities to submit their application to be on the board.

Richard Jennings, Resident Service Coordinator, Helena Housing Authority.

Throughout the United States, the Public Housing Authorities operating deficiencies are funded by HUD programs. In the past ten years, residents have asked to become more and more involved in what happens in the housing authorities. HUD began in 1938. They operated for fifty years without any resident input. HUD has asked housing authorities to be the artery to put some programs into the community. Many of those programs are things like controlling criminal activity, some career training and many welfare-to-work proposals are funneled through different programs that exist. About eight years ago, the State of Montana decided to pass legislation to get residents involved in some of the decisions, program design, etc. At that time, they thought it was feasible to get resident support for that representation. In Helena, a resident must get 125 signatures on a petition. This is very difficult. In his eight years, there had been only four people who succeeded in getting the required number of signatures. If resident input is desired, the requirements must be changed. The other members of the board who are appointed by the mayor are citizens of the community and they do not have this requirement. Since public housing is intended as a hand-up, there is a good turnover. Last year, they had a 38% turnover of nearly 800 people in the Helena Housing Authority.

Currently one of the representatives, on a seven member board, would represent seniors and disabled and the other would represent families. This legislation has been drafted to take out the language of senior and disabled. Not all housing authorities have specific senior or disabled designated housing.

Opponents' Testimony: None

Questions from Committee Members and Responses:

CHAIRMAN DALE MAHLUM asked if the Montana People's Action had any comments on the drafting of the bill, especially with the elimination of "senior and disabled." **Ed Mayer** reminded the committee that about ten years ago, Montana People's Action (MPA) was instrumental in bringing legislation forward that required resident participation on the boards. He had worked closely with MPA to see that they would agree with the changes in this bill.

They want to see effective representation on the part of low income residents. They weren't convinced that removing the requirement for signatures on a petition would actually encourage residents to communicate with each other to get proper representation. The housing authority responded that they were getting the desired participation and felt the removal of the petition would encourage residents to participate. Also, by expanding the number of people who would be eligible to apply, this would help increase the resident participation. About four weeks ago, MPA called and said they had no objection to the bill.

SEN. JOHN BOHLINGER supported the bill. He was astounded by the high turnover of residents in Helena. **Richard Jennings** explained that several things create the high turnover. In the past four to five years, the entire housing industry has responded to the shortage of rental units. Hundreds of low income units have been built. They previously had long waiting lists. Now, people move in and then find other rental units they can afford. People have been encouraged to stay in the housing units longer with programs such as retraining.

SEN. BOHLINGER wanted to know what the vacancy factor is in Helena. **Mr. Jennings** said when someone moves out they usually can have the unit rented in a week or less. They pursue applicants actively.

Closing by Sponsor:

REP. JACOBSON closed.

EXECUTIVE ACTION ON HB 439

Motion/Vote: **SEN. BOHLINGER** moved that **HB 439 BE CONCURRED IN**. Motion carried 8-1 with Miller voting no. **SEN. TOOLE** will carry the bill.

HEARING ON HB 440

Sponsor: **REP. HAL JACOBSON, HD 54, HELENA**

Proponents: **Gordon Morris, Director, MT Assoc. of Counties (MACO)**
Mike Murray, Lewis & Clark County Commissioner

Opponents: **None**

Opening Statement by Sponsor:

REP. HAL JACOBSON, HD 54, HELENA. House Bill 440 was requested by the county commissioners of Montana. This bill would revise residency requirements for election to the county commission, thereby making those consistent with the residency requirements for filling county commission vacancies. Currently when a person files for a specific county commission seat, that person has to live in that district on the date that he/she files. They would then only be required to live in that district through the election date. Whereas, if a county commission seat were vacated and someone were to be appointed to that seat, that person must live in that district and must have lived there for two years. This is an inconsistency. This bill would require a person who files for a county commission seat to have resided in the county and the district for at least two years preceding the general election.

Proponents' Testimony:

Gordon Morris, Director, MT Assoc. of Counties. This bill is straightforward. This provision of law should be consistent with a vacancy situation and a filing for the seat at election time. This would eliminate candidates shopping for a district and living in that district on the day they file until election time. Whether a person is appointed or elected, they must have lived in the district for two years.

Mike Murray, Lewis & Clark County Commissioner. This particular bill was more important to rural county commissioners than to urban county commissioners. They support the bill.

Opponents' Testimony: None**Questions from Committee Members and Responses:**

SEN. KEN TOOLE inquired about other residency laws for elected officials. **Gordon Morris** offered they had considered the laws addressing the legislators' residency criteria. They opted to keep the two year residency for election and appointing purposes.

SEN. TOOLE wondered if counties had problems in recruiting candidates for these positions across the state. **Mr. Morris** related an account of one county, in this past election, who had no candidate and the seat was filled by the former commissioner. That is only one out of fifty-six.

SEN. TOOLE spoke of litigation concerning single-member districts with Blaine County in particular. He asked if this bill changed

that problem in any way. **Mr. Gordon** recounted the Windy Boy Case in Big Horn County back in 1989. They had a significant minority population as determined by the federal court, and the one man, one vote, requirement by federal law, was violated on an at-large election basis where the candidate ran on a district rationale. He had seen, over the past 18 months, challenges of the districting methodology in Montana, especially in Rosebud County and Blaine County. He would have predicted, following the Windy Boy Case, more counties would have toppled like dominos and it hasn't happened. The district requirement is still set in code. MACO had looked at the possibility of addressing this issue and eliminating the at-large aspect for the commissioner election. They would then be elected on a district basis. They chose not to do anything at this time. The Interim Committee on Education and Local Government also looked at this issue and decided not to do anything.

SEN. JOHN BOHLINGER related that legislative candidates are not required to live in the district that they represent, but are required to live in the county.

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Closing by Sponsor:

REP. JACOBSON closed. This legislation is designed to deal with situations that do exist concerning county commissioners.

HEARING ON HB 498

Sponsor: **REP. GARY BRANAE, HD 17, BILLINGS**

Proponents: **Mike Murray, Lewis & Clark County Commissioner**
Gordon Morris, Director, MT Assoc. of Counties (MACO)
Sherrel Rhys, Jefferson County

Opponents: **None**

Opening Statement by Sponsor:

REP. GARY BRANAE, HD 17, BILLINGS. House Bill 498 would allow solid waste management district service charges to be based on a combination of waste management factors. This would improve service, hold costs down and make rates to users more equitable. Currently, solid waste districts assess charges based on only one of three different factors. Those factors are the size of the vehicle which disposes of the waste, the volume or weight of the

waste or the cost incentives/penalties applicable to waste management practices. With the passage of this bill, it would allow these districts to continue this procedure or allow them to use a combination of any or all of these methods.

Districts could look at their programs. One program is a "pay as you throw" approach. Everyone would pay by the weight of the garbage they dispose. This could be done under current law. However, many solid waste districts would like to use a modified approach whereby they could charge an annual base fee for a predetermined amount of garbage and beyond that, they could charge according to the extra weight either by per pound or by ton. This would be allowed under this bill.

Proponents' Testimony:

Mike Murray, Lewis & Clark County Commissioner. This bill would allow solid waste districts to use a combination of already allowable methods in statute. Methods of service charges by a district, for example, may charge a base fee which establishes a cost that the service provides for having a landfill. It would also allow for a "pay as you throw" system. An average household in Montana disposes two tons of trash per year. The advantage of this bill is it allows the elderly or fixed income rate payers to pay less than a roofing business. In the case of the Lewis & Clark County landfill in Helena, the Scratch Gravel Landfill, a normal user would pay a base fee of \$50 for two tons of trash. After that, they would pay an additional cost for any additional waste. This bill would help to encourage recycling.

Gordon Morris, Director, MT Assoc. of Counties (MACO). The Association stands in support of the bill.

Sherrl Rhys, Jefferson County. Her county definitely supports HB 498. They have wanted to have a base fee for a long time and then charge for extra trash. This would be advantageous for the elderly and to private businesses in that they could offer extra services beyond the base service and it would open the door to other alternatives. This would allow counties to offer services that are popular but have a base cost like recycling. Recycling saves districts money, but there is a base cost to provide the bins, etc. This is an equitable system and would benefit all residents of Montana.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. KEN MILLER asked if this was a MACO bill. **Gordon Morris** said yes, it is.

SEN. MILLER wondered if rates would go up or down under this bill. **Mike Murray** responded that rates should go down. At a minimum, they would stay the same. The amount of waste should go down if districts can implement a "pay as you throw" system. Also, recycling should increase.

SEN. JIM ELLIOTT asked if, on page 2, line 5, the language "any combination of these factors" will drive this "pay as you throw" system. **Will Selser, Lewis & Clark County, Manager, Solid Waste Disposal** replied that this would allow them to set a default limit of say 1 ½ to 2 tons which would be covered by the base rate. If a person should exceed that limit, for whatever reason, they would be charged by the pound for extra garbage. The current law would not allow this.

SEN. ELLIOTT asked **Sherrel Rhys** the same question. **Ms. Rhys** explained the same type of situation. She felt that this bill would make it more equitable for everyone if they had a little or a lot of garbage. This type of charging should encourage recycling. If people recycle, they should save on their solid waste disposal fees by not having so much trash picked up.

SEN. JOHN BOHLINGER needed an explanation of how the fees would be set. **Mike Murray** replied that the existing fee is \$80 for the base fee in Helena. If this bill should pass, this fee should be lowered for some people who have less garbage.

SEN. BOHLINGER asked how trash was weighed when going to the city landfill. **Mr. Murray** explained that in Helena, there was a scale. A truck would be weighed going in and then coming out.

SEN. MILLER inquired about the fairness to a roofer having to pay more for the shingles removed from a project. **Mr. Murray** responded that a roofer would take into account the cost for dumping shingles and include that cost in his bid for the job.

CHAIRMAN DALE MAHLUM questioned why the size of the vehicle used to dispose of waste was necessary, page 2, line 2. **Mr. Selser** informed the committee that line of the bill was not relevant to the bill or the issue.

SEN. ELLIOTT stated that if it was not necessary, it should not be in the bill or in law. **Mr. Selser** further stated that the size of the truck makes no difference in rate scheduling. It

would be solely on the volume or weight. He stated that as far as he understood the bill, line 2 on page 2 was not necessary.

Closing by Sponsor:

REP. BRANAE closed. He felt this bill would encourage people to reduce the amount of garbage by recycling. The disposal of waste is an important issue and every effort should be made to make it more efficient.

EXECUTIVE ACTION ON HB 498

Motion: **SEN. ELLIOTT** moved that **HB 498 BE AMENDED EXHIBIT (los57a01)**.

Discussion:

SEN. KEN MILLER asked for caution on removing this language. In Billings, they charged him on the size of his truck. He believed that since that time, Billings had put in a scale.

SEN. DON HARGROVE responded that recently cities have scales. On page 2, line 3 it states "the volume or weight of the waste." This would discount the size of truck. They would look at the volume or cubic feet of a container and if not full, could pro-rate the cost.

CHAIRMAN MAHLUM explained in Missoula, they measure the container holding the garbage and charge by the volume.

Vote: Motion carried 9-0.

Motion/Vote: **SEN. ELLIOTT** moved that **HB 498 BE CONCURRED IN AS AMENDED**. Motion carried 9-0. **SEN. ELLIOTT** will carry the bill.

EXECUTIVE ACTION ON HB 440

Motion/Vote: **SEN. BOHLINGER** moved that **HB 440 BE CONCURRED IN**. Motion carried 9-0. **SEN. BOHLINGER** will carry the bill.

CHAIRMAN MAHLUM informed the committee that HB 30 that was awaiting executive action might be moved to Judiciary Committee.

Leanne Kurtz explained that HB 146 is amending the section that HB 30 is amending. The two sections are conflicting. Judiciary Committee is hearing HB 146 and it was felt that they should hear HB 30 and make the decision on how to handle both bills.

ADJOURNMENT

Adjournment: 4:15 P.M.

SEN. DALE MAHLUM, Chairman

MARY GAY WELLS, Secretary

DM/MW

EXHIBIT (los57aad)